

IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

No. ~~73~~5-1815

JAMES C. GABRIEL, *Pro Se*, a Class B Equity Bearing
Common Stockholder in the Missouri Pacific Railroad
Company, for Himself,

Plaintiff-Appellant, Pro Se,

—v.—

UNITED STATES OF AMERICA and INTERSTATE
COMMERCE COMMISSION,

Defendants-Appellees,

MISSOURI PACIFIC RAILROAD COMPANY,

Intervening Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT,
DISTRICT OF NEW JERSEY
(THREE-JUDGE COURT)

JURISDICTIONAL STATEMENT

JAMES C. GABRIEL, *Pro Se*,
Plaintiff-Appellant

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No. 75-.....

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Common Stockholder in the Missouri Pacific Railroad
Company, for Himself,

Plaintiff-Appellant, Pro Se,

—v.—

UNITED STATES OF AMERICA and INTERSTATE
COMMERCE COMMISSION,

Defendants-Appellees,

MISSOURI PACIFIC RAILROAD COMPANY,

Intervening Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT,
DISTRICT OF NEW JERSEY
(THREE-JUDGE COURT)

JURISDICTIONAL STATEMENT

Appellant Gabriel, Pro Se, appeals from the Letter Opinion of March 1, 1976 and Order dated March 17, 1976 of the United States District Court, District of New Jersey, Three Judge Court, denying my motion, without costs, to Require Joinder of the Internal Revenue Service under Rule 19 of the Rules of Civil Procedure, with my affidavit to back up

the motion, entered on January 27, 1976—Joinder of Persons needed for just adjudication in order to join the Internal Revenue Service as a party plaintiff with Appellant Gabriel in the above Captioned Case in the above District Court of New Jersey, Civil Action #74-471, in order that the I.R.S. become enabled to collect over \$100,000,000 in Capital Gains Taxes on \$800,000,000 Taxable Income, so that the Internal Revenue Service becomes enabled to use its law expertise to win a Federal Court Order through Court procedure ordering the Interstate Commerce Commission to have my Missouri Pacific Railroad Class B equity bearing Common Stocks evaluated under due process of law according to the MoPac I.C.C. "Agreed System Plan" of Reorganization or Charter of 1954-1955, 290 I.C.C. 477, and according to my Constitutional Rights under the 5th Amendment—"No person shall be * * * deprived of life, liberty or property, without due process of law; * * *," and according to the 14th Amendment, Section 1, line 2, "No state shall * * * deny to any person within its jurisdiction the equal protection of the laws; and according to Article 1, Section 9—"No bill of attainder or ex post facto law, or law impairing the obligation of contracts, * * *."

The U. S. Internal Revenue Service has the law expertise to help win a U. S. District Court Order by the Federal Court, ordering the Interstate Commerce Commission to get a due process of law evaluation of my Missouri Pacific Railroad Class B equity bearing Common stocks according to the "Agreed System Plan" of Reorganization of 1954-1955 MoPac Charter 290 I.C.C. 477 which will give each Class B equity bearing Common stocks a value of over \$22,500 per Class B based upon 12/31/72 Retained Income of \$349,192,000, and consolidated nondepreciable properties,

including land and land rights of approximately \$545,000-000, or a total of \$894,000,000 for 39,731 shares of Class B, instead of the \$97 million or \$2,450 value per share given to Class B as "Fair Value" by the I.C.C. This additional \$800 million value will net the I.R.S. over \$100,000,000 in capital gains taxes, \$62 million taxes coming from Mississippi River Corp.

Mississippi River Corporation will have to pay over \$62 million in I.R.S. Capital Gains Taxes because Mississippi owns 62% of Class A \$5 preferred \$100 value stocks which according to this "Plan of Recapitalization" of 1973 benefits over \$400,000,000 in values which have been transferred to its Class A \$5 pfd \$100 per share value stocks from the Class B equity bearing Common stocks without having paid any taxes to the I.R.S.

Appellant Gabriel, Pro Se, respectfully submits this statement to show that the Supreme Court of the United States has jurisdiction of this appeal and that a substantial question is presented for Requiring Joinder of the United States Internal Revenue Service under Rule 19 of the Rules of Civil Procedure so as to enable the I.R.S. to collect over \$100 million in Capital Gains Taxes that have not been collected, especially over \$62,000,000 in Capital Gains Taxes owed to the I.R.S. by Mississippi River Corporation, which controls Missouri Pacific Railroad Company, an Intervening Defendant in the above Captioned Case.

**Order and Opinion of the Three-Judge Court Below
in the United States District Court,
District of New Jersey**

Appellant's Motion and Affidavit in support of the motion to join the Internal Revenue Service as a party plaintiff was opened to the Court by James C. Gabriel, Pro Se, dated January 27, 1976, to Require Joinder of the Internal Revenue Service under Rule 19 of the Rules of Civil Procedure, making the I.R.S. a party with Plaintiff on the above Civil Action.

The Three-Judge Court considered Appellant's Motion and Affidavit filed in support, as well as the Letter Memorandum in opposition to the Motion, and the Court filed a Letter Opinion on March 1, 1976, and on the 17th day of March, 1976, "Ordered that a motion for plaintiff to join the Internal Revenue Service as a party plaintiff herein be and the same hereby is Denied without Costs." See Exhibits A and B in Appendix.

Jurisdiction

The jurisdiction of the Supreme Court of the United States to hear this appeal rests upon 28 U.S.C. 1253.

This present Civil Action Motion by Plaintiff, Pro Se, to Require Joinder of the Internal Revenue Service, was filed on January 27, 1976 in the United States District Court, District of New Jersey, a Three-Judge Court, to Require Joinder under Rule 19 of the persons needed for just adjudication, in order to join the I.R.S. as a party plaintiff with appellant Gabriel in order that the Internal Revenue Service uses its law expertise so that it may

become enabled to collect Capital Gains Taxes of over \$100,000,000 based upon the transfer of from \$615 million to \$797 million values without the payment of any capital gains taxes to the I.R.S. on this transfer of property and retained values. These values were transferred from the Class B equity bearing Common stocks to the Class A \$5 preferred \$100 value stocks, which later were converted into MoPac equity common without any due process evaluation of Class B.

Plaintiff's Motion to Require Joinder of the Internal Revenue Service was denied by the Three-Judge Court order without costs on March 17, 1976, without Hon. Judges' signatures affixed on the Order, only an S,S,S. See Exhibit C. Plaintiff made an affidavit dated and Filed March 22, 1976 to the Honorable Court to have the Hon. Three Judges, Hon. James Hunter III, Hon. Lawrence A. Whipple and Hon. Clarkson S. Fisher sign this Order so that Plaintiff, Pro Se, may become enabled to make a Notice of Appeal to the Supreme Court of the United States to appeal the lower Court Order denying Joinder of the I.R.S. under Rule 19. See Exhibit D. Plaintiff received no reply from the Court. Plaintiff made another Affidavit which Plaintiff personally filed at the above Court on April 22, 1976 and took one Filed copy to Hon. Judge Fisher's Chambers. See Exhibit E. Judge Fisher's secretary telephoned the Court Clerk for the above Court Order of March 19, 1976 and the secretary was told it was in the Clerk's office. Plaintiff went to the Clerk's office and got a copy of the Order on Civil Action #74-469 for a fee of 50 cents. Now with the signatures of the 3 Hon. Judges, see Exhibit G, Plaintiff immediately made a Notice of Appeal to the Supreme Court of the United States and took it by hand with enough copies to the Clerk of the Court, which was served to all concerned—appealing for my mo-

tion dated January 27, 1976 to Require Joinder of the I.R.S. to enable it to collect over \$100,000,000 capital gains taxes, \$62 million coming from Mississippi. (See Exhibit "H".)

Jurisdiction of this appeal is conferred by 28 U.S.C. Section 1253.

The following cases sustain the jurisdiction of this Court: *Reynolds v. Sims*, 377 U.S. 533 (1964); *Baker v. Carr*, 369 U.S. 186 (1962); and especially *United States v. Crescent Amusements Co.*, 323 U.S. 173 (1944). But see, *Bailey v. Patterson*, 369 U.S. 31 (1962); *Turner v. City of Memphis*, 369 U.S. 350 (1962); *Phillips v. United States*, 312 U.S. 246 (1941); and *William Jameson & Company v. Morgenthau*, 307 U.S. 171 (1939).

This Civil Action was instituted originally in the United States District Court, District of New Jersey, original Complaint Filed April 3, 1974 for Review of Administrative Action of the Interstate Commerce Commission Finance Docket #27346, with Amended Complaint to Supplement original Complaint filed May 7, 1974, the entire Interstate Commerce Commission to stand up and enforce their own laws which is The MoPac I.C.C. "Agreed System Plan" of Reorganization of 1954-1955, for a due process of law evaluation of my Class B Common, by giving the true real value for Plaintiff's Class B stocks—value for value surrendered for the new MoPac Common which is I.C.C.'s own laws.

Jurisdiction was instituted pursuant to the provisions of U.S. Code Title 28, Sections 1326, 1398, 2284, 2321, 2325, 2401, and Title 5 Section 1009 which confers jurisdiction upon the Three-Judge Court of the U.S. District Court.

Joinder of the I.R.S. under Rule 19 of the Rules of Civil Procedure must be ruled favorably by this Court to get a due process of law evaluation Order by the lower Court to the I.C.C. by the use of I.R.S. law expertise to that effect, so that the I.R.S. may become enabled to collect over \$100 million in I.R.S. Capital Gains Taxes.

Plaintiff, Pro Se, as a Class B equity bearing Class B Common stockholder is being hurt over \$20,000 per Class B because the Court below does not rule that Plaintiff's Class B should be Ordered evaluated by the I.C.C. under due process of law to find its real true value so that the I.R.S. can also collect the Capital Gains Taxes due to it.

MoPac is controlled by the Mississippi River Corp. Mississippi River Corp. bought up the Class B equity shares from Alleghany at their "Settlement Agreement" as of December 18, 1972, by and between Alleghany, MoPac and Mississippi River Corp. at \$2,450 value per Class B. Mississippi is behind this so-called "Plan of Recapitalization." This takeover of other peoples' property of Class B equity shares without just compensation and due process of law evaluation has been done by calling this takeover a "Plan of Recapitalization" under Section 20a of the Interstate Commerce Act. This 20a was passed by Congress in 1920 to prevent fraud against the railroad investing public, to have the I.C.C. act as policeman to prevent fraud against the railroad investing public. But 20a is being used by the I.C.C. and MoPac to take away my Class B property without just compensation or due process evaluation by transferring the values of my Class B equity shares to the Class A \$5 preferred \$100 value stocks. Mississippi which controls 62% of the Class A \$5 preferred has profited by this transfer to its preferred of over \$400,000,000 in Retained Income and Property values. Mississippi paid no taxes on

this transfer, at the same time its preferred becoming converted into an equity bearing Common, without a due process evaluation of Class B to give value for value in exchange. That is why the I.R.S. must be joined into this case by Rule 19.

This was the idea concocted by Mississippi which is behind this "Plan of Recapitalization" under 20a, to pay only \$2,450 per Class B, which has a value of over \$22,500 per share, without a due process, by having Commission Division 3 say in its decision of the MoPac Case, Finance Docket #27346, on December 6, 1973 that "Moreover, the Commission's jurisdiction under 20a is plenary and exclusive and independent of any other Federal Authority. *Schwabacher v. United States, supra*, at 197. Since the matter involved in this proceeding comes within the purview of Section 20a, our jurisdiction in the proceeding is supreme * * *." This is the way Mississippi River Corporation transfers to its 62% holdings of Class A \$5 preferred stocks over \$400,000,000 in values of other people's property without paying for this \$400,000,000 property, and at the same time Mississippi is paying no Capital Gains Taxes on this notorious takeover, which amounts to over \$62 million in capital gains taxes that Miss. owes the I.R.S. That is why Mississippi is spending so much for fees to prevent me and others from having Class B evaluated under due process by a Court Order to the I.C.C. It is only by this Honorable Supreme Court of the U.S. ruling that the Internal Revenue Service can come into this MoPac Case under Rule 19 to become enabled to use its expertise in law to get a Federal Court Order for a due process of law evaluation of Class B equity shares so that the I.R.S. will become enabled to collect the \$100,000,000 in Capital

Gains Taxes coming to it by this "Plan of Recapitalization", especially the \$62,000,000 owed by Mississippi River Corp. The I.R.S. will then have brought a solution to this MoPac case by first getting a Court order for a due process of law evaluation to the I.C.C. MoPac Class B, as of Dec. 31, 1972, has a Retained Income of \$349,192,000 that belongs to Class B equity shares in MoPac, which with the \$545 million in consolidated nondepreciable MoPac properties including land and land mineral rights, amounts to a total of \$894 million, which when divided by 39,731 Class B shares comes to about \$22,500 per Class B. Mississippi is trying to get all Class B shares, including my own, at \$2,450 value per share or a total of about \$97 million. There is a difference of between \$615 million to \$797 million in favor of Class A \$5 pfd., and the reason why Mississippi River Corp. is fighting so hard to prevent due process evaluation of Class B. That is the reason why this Honorable Supreme Court should rule to allow the I.R.S. enter this case, under Rule 19.

Plaintiff's Jurisdictional Rights are based upon the Constitution and laws of the United States.

A due process of law evaluation of his Class B is Plaintiff-Appellant's rights under the 5th Amendment. According to the 14th Amendment Section 1, line 2, it is stated as follows: "No state shall deny to any person within its jurisdiction the equal protection of the laws." Plaintiff-Appellant is not being accorded the equal protection of the laws, he is not being given the right by the Federal Court below which is not Ordering the I.C.C. to a due process of law evaluation of his Class B equity shares according to the "Agreed System Plan" of 1954-1955, 290 I.C.C. 477, to get Class B real and true value so that the I.R.S. may

become enabled to collect the over \$100 million Capital Gains taxes owed to it through a due process of law evaluation. In addition, according to Article 1, Section 9—"No bill of attainder or ex post facto law shall be passed." Section 20a is ex post facto law that is being enforced to overcome the MoPac "Agreed System Plan" of 1954-1955, 290 I.C.C. 477, which is a law of the United States as of 1955. Section 10 states: "No state shall * * * pass any * * * ex post facto law, or law impairing the obligations of contracts, * * *." The "Agreed System Plan" of 1954-1955 or MoPac Charter, 290 I.C.C. 477, is the contract made in 1955 both by the Interstate Commerce Commission and the U.S. Federal District Court in Saint Louis, Eastern Division, Eastern Judicial District of Missouri. This "Agreed System Plan" is a contract and it is a law of the United States and it must be enforced by a due process evaluation of Class B. Alleghany, MoPac and Mississippi River Corp. are trying to impair this "Agreed System Plan" contract by using Section 20a of the Act with which to take over other peoples' property without due process evaluation. These companies are trying to compel me by court action and by the I.C.C. 20a action to give up my Class B equity bearing MoPac stocks and to accept an arbitrary value of \$2,450 per Class B equity share without any right to a due process of law evaluation of my Class B shares which due process would give my Class B about 10 times more value than I am being offered by Mississippi River Corp. The opposition is trying to include into this "Plan of Recapitalization" this Plaintiff-Appellant who is a dissenter who voted against this "Plan" and who is fighting for his Constitutional rights to have a due process evaluation of his B equity bearing Common Shares, because \$2,450 value per Class B equity shares is arbitrary and too low a value

for each Class B, the \$2,450 value per share being for "Settlement Agreement" purposes only. This \$2,450 figure had not been arrived at by a due process of law evaluation according to the I.C.C. MoPac "Agreed System Plan" of Reorganization of 1954-1955, 290 I.C.C. 477. This is the due process that I am asking for. The reason why Plaintiff is appealing for his Motion of January 27, 1976 to Require Joinder of the I.R.S. with Plaintiff into this case is to enable the I.R.S. collect over \$100 million in capital gains taxes, \$62 million of these taxes coming from Mississippi River Corporation which has benefited over \$400 million in values transferred to its Class A \$5 preferred stocks. This Honorable Court must respectfully allow the I.R.S. to join with Plaintiff-Appellant under Rule 19 to help evaluate Class B equity shares under due process of law.

Questions Presented

1. How could the United States District Court, District of New Jersey, Three-Judge Court panel allow between \$615 million and \$797 million values be transferred from the Class B equity bearing common stocks to the Class A \$5 preferred \$100 value stocks and then allow the preferred to be converted into an equity bearing common stock (1) without a due process of law evaluation of both the Class B equity bearing common stocks and the Class A \$5 preferred in a "Plan of Recapitalization," (2) without the payment of capital gains taxes to the Internal Revenue Service of over \$100,000,000 in taxes for these huge transfers of values? Isn't this reason enough why Plaintiff-Appellant has made a Motion and Affidavit to Require Joinder of the Internal Revenue Service under Rule 19 to become party with Appellant, to have the I.R.S. use their law expertise

to get a Court Order to the I.C.C. to evaluate Class B under due process of law so the I.R.S. could become enabled to collect the capital gains taxes coming to it, especially the \$62 million in capital gains coming from Mississippi River Corporation?

2. How could an Assistant United States Attorney be permitted by the Three-Judge Court to quash Plaintiff's motion to join the Internal Revenue Service under Rule 19 as a party with Plaintiff to help the I.R.S. in collecting over \$100 million in capital gains taxes by using its law expertise with which to win a lower Court Order to have the Interstate Commerce Commission evaluate Class B equity stocks, and Class A \$5 pfd. under due process of law to find their real true values according to the "Agreed System Plan" of 1954-1955, 290 I.C.C. 477? Only then will Plaintiff-Appellant get the real true value for his Class B in a fair exchange for value for value for the new common of recapitalization when the I.R.S. joins with Plaintiff under Rule 19?

Answers to Questions Presented

1. There is no dispute that the transfer of between \$615 million and \$797 million in values from the Class B equity common stocks to the Class A \$5 preferred \$100 value stocks in a "Plan of Recapitalization" without a due process of law evaluation is against the 5th Amendment. It is also against the 14th Amendment, Section 1, due process of law and the equal protection of the laws. It is also against Article 1, Section 9—no ex post facto law shall be passed. Article 10—"No state shall * * * pass any law impairing the obligation of contracts." The "Agreed System Plan" of Reorganization is the contract—290 I.C.C.

477, which the "Plan of Recapitalization" is impairing, with the use of Section 20a to destroy a due process of law evaluation for Class B to find the values of B equity bearing common shares for the benefit of the I.R.S. Because the lower Court denies Joinder of the Internal Revenue Service under Rule 19, it is a must for the sake of justice, and for the sake of the rights of the U.S. Government I.R.S. to have the Supreme Court of the U.S. to rule in favor of allowing the I.R.S. to enter into this milestone case for justice sake. The I.R.S. must become enabled to collect at least the \$62 million capital gains taxes owed by Mississippi River Corp. To do otherwise would be against the 14th Amendment equal protection of the laws—large corporate powerful structure should be taxed equally with small people.

2. The Honorable Supreme Court must respectfully require joinder under Rule 19 to enable the I.R.S. to collect capital gains taxes coming to it. The Assistant U.S. Attorney having quashed the motion to join the I.R.S. under Rule 19 it is now respectfully the constitutional duty of the Supreme Court to rule to require joinder of the I.R.S. under Rule 19 to save the day for law, order, and justice under the Constitution of the United States.

Statement of the Case

The MoPac Class B original suit was commenced by *Betty Levin v. Mississippi River Corp.* in 1967 for better dividends for MoPac Class B equity bearing common stockholders. It was later made into a class action by Hon. Frederick vPelt Ryan, U.S.D.J., Southern District of New York, on October 9, 1968 in regard to dividends; that Class B stockholders were not getting enough dividends on their

Class B. No intervenors were permitted after December 20, 1968. 67 Civ. 5059.

On December 18, 1972, a "Settlement Agreement" was made "dated as of December 18, 1972 by and between Alleghany Corporation, MoPac and Mississippi River Corporation," to sell to Mississippi River Corp. all of the 53% holdings of Alleghany's Class B equity MoPac shares at \$2,450 value per Class B, or for about \$97 million for the entire 39,731 shares of Class B. This price was so cheap that Mississippi wanted all the Class B at that price and used the Section 20a of the Interstate Commerce Act for a "Plan of Recapitalization" to take the Class B shares at a fixed price and convert all of her 62% Class A \$5 preferred \$100 value shares into new equity bearing common based upon value of \$2,450 per Class B without a due process of law evaluation to find Class B real true value, which under due process is about \$22,500 per Class B which is according to MoPac's Charter or "Agreed System Plan" of Reorganization of 1954-1955, 290 I.C.C. 477, which would give to the Class B equity common shares about \$22,500 per share value made upon \$349 million Retained Income and \$545 million in property values as of December 31, 1972, or a total of about \$894 million for the 39,731 Class B, all these values belonging to Class B in MoPac.

The "Plan of Recapitalization" called for the conversion of the 1,860,000 shares of Class A \$5 pfd. into the new equity common by adding to the \$5 pfd. over \$615 million to \$\$797 million values by transferring these values from Class B and giving them to Class A \$5 pfd., thereby increasing the Class A \$5 pfd. \$100 value stocks to a value of about \$430 per share or over, with a new common stock equity status for the old \$5 pfd. This reduces the equity

value of Class B from 82½% to 24½% and increases the Class A value from 17½% to 75½%, or from \$186 million for the 1,860,000 Class A \$5 pfd. to about \$801 million and reduces Class B to \$97 million from \$894 million. But this requires taxes to be paid amounting to over \$100,000,000 in capital gains to the I.R.S. by Class A, the biggest holder being Mississippi River Corporation which benefits over \$400 million. Taxes on this Mississippi take is over \$62 million to I.R.S.

Alleghany Corporation was not really representative of the minority Class B holders as she was portrayed to be by the Weinfeld Court and by the I.C.C. Alleghany had a tax advantage in disposing of its Class B at an arbitrary low price value of \$2,450 per share and it was pressured by the I.C.C. to dispose of its Class B in order to be allowed by the I.C.C. to remain as a motor carrier under I.C.C. jurisdiction because alleghany owns Jones Motor Co. and saves several million dollars annually in I.R.S. penalty taxes by remaining as a motor carrier under the I.C.C. jurisdiction. Besides, Alleghany controls Investors Diversified Services Inc., a \$7 billion Investment Trust Complex and as a motor carrier Alleghany is not under the S.E.C. Federal law supervision in their investments. Some favoritism under the I.C.C. jurisdiction.

The older background facts are very important and essential for an understanding of this petition to allow the I.R.S. joinder under Rule 19 with Appellant Gabriel. Only the I.R.S. joinder can respectfully solve this MoPac case.

The Agreed System Plan of 1954 or Charter, 290 I.C.C. 477 is a law of the United States and must be enforced by the Federal courts to get Class B real and true value by

due process, because the "Agreed System Plan" was approved and certified both by the I.C.C. and the Federal District Court in St. Louis. Not to give Class B a due process of law evaluation is against the 5th Amendment, and Article 1, Section 10—No State shall make laws impairing the obligation of contracts. The MoPac Charter "Agreed System Plan" is a contract and Class B must be evaluated under due process of law.

Only the I.R.S. has the clout and the law expertise to solve this case by enforcing the law. The law is on the side of Class B shares and the law must be enforced for the sake of justice.

The Questions Are Substantial

The prior order dated March 17, 1976 of the Three-Judge Court below plainly violated this Plaintiff-Appellant's 5th Amendment Guarantees of Due Process of law, and the 14th Amendment Section 1, line 2, of due process, and equal protection of the laws. Little people like myself are not being treated equally before the law, the same way that large corporate structures like Mississippi, MoPac and Alleghany are being treated.

A Motion and affidavit to support the Motion was made by Plaintiff, Pro Se, filed January 27, 1976 to Require Joinder of the Internal Revenue Service, to become a party with Plaintiff, under Rule 19 of the Rules of Civil Procedure, in order that the I.R.S. with their law expertise becomes enabled to collect Capital Gains Taxes of over \$100 million on the transfer of over \$615 million in taxable values of Retained Income and Property Values from the Class B equity bearing Common shares to the Class A \$5

preferred \$100 value stocks of MoPac. MoPac and Mississippi are cleverly using Section 20a of the Act to help defraud both the I.R.S. out of many millions in Capital Gains Taxes and Appellant Class B equity stockholder out of over \$20,000 pre Class B. If Plaintiff loses this case and there is no Court Order from this Court ordering the Interstate Commerce Commission to evaluate Class B under due process of law to get its real true higher values than the \$2,450 per Class B that was for "Settlement" purposes only, the chances for the I.R.S. are lost forever to collect this over \$100 million in taxes, especially the \$62 million Capital Gains Taxes from Mississippi River. Therefore it is incumbent upon this Honorable Court to Require Joinder of the I.R.S. to save those taxes to the Government.

Whoever heard of transferring between \$615,000,000 and \$797,000,000 values in Retained Income and Property values from the Class B equity bearing Common shares to the Class A \$5 pfd \$100 value stocks, and raise this value from \$100 per share to over \$430 per share, this pfd. now being converted into Common equity bearing shares, without the payment of any taxes on the over \$615 million values transferred to the \$5 Class A Pfd. Joinder of the I.R.S. under Rule 19 into this court case to use its law expertise to help win for its Government the taxes owed to it must respectfully be approved by this Honorable Supreme Court.

This plaintiff appellant does not have the ability in law to help win a decision in favor of a due process evaluation of Gabriel's Class B equity shares. Only the I.R.S. has the law expertise to win a due process of law evaluation of Class B so that the U.S. can collect the over \$100 million owed to it.

CONCLUSION

Appellant is entitled to be heard in order to join the Internal Revenue Service to become a party with Plaintiff Appellant, to have the I.R.S. use their law expertise to stand up for the rights and interests of the U.S. Internal Revenue Service which has over \$100 million in capital gains taxes coming to it in uncollected taxes due to the Government of the U. S. in the transfer of over \$615,000,000 from the Class B equity Common shares and giving it all to the Class A \$5 pfd. \$100 value shares, 62% of Class A being owned by Mississippi River Corporation, the Company which is the architect of this whole scheme or so called "Plan of Recapitalization," the Company that benefits over \$400 million in property and Retained Income values taken from the Class B equity Common shares without the payment of one red cent of the over \$62,000,000 capital gains taxes it should pay to the U. S. Internal Revenue Service under a due process of law evaluation of Class B which will give Class B its real true value of over \$22,500 per share. This is the reason why Plaintiff-Appellant needs the I.R.S. to join him under Rule 19 to use their law expertise to help win a due process of law evaluation of Class B.

By this Honorable Court obeying the Constitutional guarantees of the United States to this Appellant by ruling to require joinder of the I.R.S. under Rule 19 to join the I.R.S. with this Appellant to have I.R.S. use its law expertise to evaluate Class B, it will financially benefit the U. S. Internal Revenue Service many millions of dollars in Federal Capital Gains Taxes that will not otherwise be able to be collected by the I.R.S. if due process was not granted

by the Court. In addition, this ruling by this Honorable Court to rule in favor of joinder of the I.R.S. under Rule 19 will create much more respect for the rights and interests of the U. S. Internal Revenue Service. It will mean equal protection under the law where everyone is treated equally, equal, even with the large corporate structures. It will also help the public's regard for the Federal Court system. It will show and prove to the American public that it is not only the little man who carries the burden but that the big corporate structures are also made to toe the line of the law.

For the reasons stated above, please grant Petitioner
to Require Joinder of the Internal Revenue Service under Rule 19 of the Rules of Civil Procedure.

Respectfully submitted,

James C. Gabriel Pro Se
JAMES C. GABRIEL, *Pro Se*,
Plaintiff-Appellant

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APPENDIX

Letter Opinion of the District Court,
District of New Jersey

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
TRENTON, N. J. 08605

CHAMBERS OF
CLARKSON S. FISHER
JUDGE

March 1, 1976

LETTER OPINION

Mr. William R. Wesson,
1550 Ocean Avenue,
Mantoloking, N.J. 08738

Mr. James C. Gabriel,
P.O. Box 94,
Sea Girt, N.J. 08750

Mr. John C. Vaiani,
1330 River Avenue
Point Pleasant, N.J.

Ronald L. Reisner, Esq.,
Asst. U. S. Attorney,
U.S.P.O. and Courthouse,
Trenton, N.J. 08605

Leon Leighton, Esq.,
6 East 45th Street,
New York, N.Y. 10017

Re: Gabriel v. U.S.A. et al., 74-471
 Wesson v. U.S.A. et al., 74-469
 Vaiani v. U.S.A. et al., 74-470

(Consolidated)

Gentlemen:

The court has received yet another motion by plaintiffs to join the Internal Revenue Service as a party plaintiff. This motion was made before and was denied. It is again denied after consultation with Judges Hunter and Whipple.

The Government will submit an order for signature by all three judges. All proceedings will now be closed pending the court's determination of the matter.

Very truly yours,

/s/ CLARKSON S. FISHER,
 Clarkson S. Fisher,
 U.S.D.J.

CSF/efr

c.c. Hon. James Hunter III
 Hon. Lawrence A. Whipple
 Hanford O'Hara, Esq.

First Order of United States District Court,
 District of New Jersey

EXHIBIT B and C

RLR:kew

74 1380

74 1383

74 1384

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

Civil Action 74-469

JAMES C. GABRIEL, *pro se*, et al.,

Plaintiffs,

—v.—

UNITED STATES OF AMERICA, et al.,

Defendants.

This matter, a motion to join the Internal Revenue Service as a party plaintiff, having been opened to the Court by James C. Gabriel and William R. Wesson, plaintiffs pro se, in the presence of Jonathan L. Goldstein, United States Attorney for the District of New Jersey, Ronald L. Reisner, Assistant United States Attorney appearing, Fritz R. Kuhn, General Counsel for the Interstate Commerce Commission, Harold O'Hara, Esquire appearing, Leon Leighton, Esquire appearing and John Charles Vaiani plaintiff pro se appearing, and the Court having considered the motion and the documents filed in support thereof as

well as the letter memorandum in opposition to the motion, and the Court having filed a letter opinion on March 1, 1976 and for good cause shown;

It is on this 17 day of March, 1976

ORDERED that the motion by plaintiff to join the Internal Revenue Service as a party plaintiff herein be and the same hereby is DENIED without costs.

S/
JAMES HUNTER, III
United States Circuit Judge

S/
LAWRENCE A. WHIPPLE
Chief, United States District Judge

S/
CLARKSON S. FISHER
United States District Judge

ORIGINAL FILED
MAR 17 1976
ANGELO W. LOCASCIO
Clerk

Affidavit of James C. Gabriel
Dated March 20, 1976

EXHIBIT D

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

Civil Action #74-471

JAMES C. GABRIEL, *Pro Se*,

Plaintiff,

—v.—

UNITED STATES OF AMERICA and INTERSTATE

COMMERCE COMMISSION,

MISSOURI PACIFIC RAILROAD COMPANY,

Intervening Defendant.

Regarding Order of U.S.D. Court. *Affidavit* in regards to the Order of March 17, 1976, whereby it is Ordered that the Motion by Plaintiff, Pro Se, James C. Gabriel to Join the Internal Revenue Service as a party plaintiff under Rule 19 in order that the Internal Revenue Service collects \$100 million taxes, be denied. The government Internal Revenue Service now cannot join with plaintiff James C. Gabriel, Pro Se, in the above captioned case in order that the U.S. Government Internal Revenue Service use its law expertise to become enabled to collect capital gains taxes of over \$100 million in the transfer of over \$615 million values from the Class B equity bearing MoPac Common Shares to the Class A \$5 Preferred \$100 Value Shares,

giving to the Class A a value of over \$430 per share and an equity bearing Common Stock status, as of Dec. 31, 1972, by merely calling this fraud against my Class B equity bearing stocks a "Plan of Recapitalization" under Section 20a of the Interstate Act.

For that reason I am appealing this Order by the U.S. District Court that denied my motion, to the United States Supreme Court. In order to do that I am asking this Honorable Court to please have the Honorable James Hunter III, U.S. Circuit Judge; Honorable Lawrence A. Whipple, Chief, U.S. District Judge; and Clarkson S. Fisher, U.S. District Judge, sign their own signatures on this Court Order denying my motion, because *the Court Order has no official signature on it of the above Honorable Judges*, that I received.

STATE OF NEW JERSEY,
COUNTY OF MONMOUTH, ss.:

JAMES C. GABRIEL, Pro Se, Plaintiff, being duly sworn, deposes and says: that he is appealing the U.S. District Court Order denying him to join the Internal Revenue Service under Rule 19 of the Rules of Civil Proceed., and for other reasons:

1) This is my *Notice of Appeal* to the United States Supreme Court *after* I have received a signed Original Filed Copy, signed by Honorable James Hunter, III, U.S. Circuit Judge; Honorable Lawrence A. Whipple, Chief, U.S. District Judge; and Honorable Clarkson S. Fisher, U.S. District Judge, of the Civil Action Order, Civil Action #74-471, James C. Gabriel, Pro Se, Plaintiff, v. U.S.A. and

Interstate Commerce Commission, Defendants, Missouri Pacific R.R. Co., Intervening Def., denying my Motion to Join the Internal Revenue Service under Rule 19 into this MoPac Case to help the I.R.S. collect \$100 million in taxes.

2) My Civil Action #74-471 Notice of Motion to Require Joinder of the Internal Revenue Service under Rule 19 for the I.R.S. to become enabled to collect Capital Gains taxes of over \$100 million, was received and stamped by the U.S. District Court on Jan. 27, 1976, copy of which I mailed to Mr. Alexander, Director of Int. Rev. Service, Washington, D.C., by regular first class mail. I did not see the I.R.S. object to this Motion. Since when is the Justice Dep't. the I.R.S., to quash this Motion, which it did?

/s/ JAMES C. GABRIEL, Pro Se

JAMES C. GABRIEL, Pro Se
P.O. Box 94, Sea Girt, N.J. 08750
201-899-6200

Dated: Monmouth County of N.J.

Subscribed & Sworn Before Me
This 20th day of March, 1976.

[SEAL]

MARIE SOARES

Notary Public of New Jersey
My Commission Expires Dec. 20, 1978

Affidavit of James C. Gabriel
Dated April 22, 1976

EXHIBIT E

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

Civil Action #74-471

JAMES C. GABRIEL, Pro Se,

Plaintiff,

—v.—

UNITED STATES OF AMERICA and INTERSTATE

COMMERCE COMMISSION,

MISSOURI PACIFIC RAILROAD COMPANY,

Intervening Defendant.

Affidavit in regards to Plaintiff's Notice of Motion and Affidavit filed on March 22, 1976 and stamped Original Filed Mar 22, 1976 Angelo Locasio Clerk to Require That the Order by This Honorable Court dated on the 17th day of March, 1976, that the motion by plaintiff Gabriel to Join the Internal Revenue Service Under Rule 19 as a Party Plaintiff, be denied, should be signed by Honorable James Hunter III, U.S. Circuit Judge; Honorable Lawrence A. Whipple, Chief U.S. District Judge; Clarkson S. Fisher, U.S. District Judge, in order that plaintiff Gabriel may become officially enabled to make a Notice of Appeal to the U.S. Supreme Court, to have the U.S. Supreme Court make

an official ruling on my motion, Original Filed Jan. 27, 1976, to Require Joinder of the Internal Revenue Service Under Rule 19 in order that the Internal Revenue Service can collect capital gains taxes of over \$100 million on the transfer of over \$615 million values from the Class B equity bearing MoPac Common Stock to the Class A \$5 Preferred \$100 Value Stocks without having paid any capital gains taxes to the United States Government Internal Revenue Service on the transfer of \$615 million values.

STATE OF NEW JERSEY,
COUNTY OF MONMOUTH, ss.:

JAMES C. GABRIEL, Pro Se, Plaintiff, being duly sworn, deposes and says: I am again asking this Honorable Court to please have the Honorable James Hunter III, U.S. Circuit Judge; Honorable Lawrence A. Whipple, Chief, U.S. District Judge, to sign their signatures on the Court Order dated Original Filed Mar 17, 1976, Angelo W. Locasio, Clerk, because this Order is without their signatures. I must have their signatures in order that I may become enabled officially to make a Notice of Appeal to the Supreme Court of the United States, to have the Supreme Court make an official ruling on my Motion to Require Joinder of the Internal Revenue Service Under Rule 19 in order that the IRS becomes enabled to collect capital Gains taxes of over \$100 million on the transfer of over \$615 million values in retained income and property values from the MoPac Class B equity bearing Common Stocks to the \$5 Class A Preferred \$100 Value MoPac Shares without having paid any Capital gains taxes to the U.S. Government I.R.S. on this \$615 million.

Respectfully submitted,

/s/ JAMES C. GABRIEL, Pro Se

JAMES C. GABRIEL, Pro Se
P.O. Box 94, Sea Girt, N.J. 08750

Dated: Monmouth County of N.J.

Subscribed & Sworn Before Me
This 22nd day of April, 1976.

[SEAL]

STEVEN S. GRALLA
Notary Public of New Jersey
My Commission Expires January 20, 1980

Original Filed
Apr 22 1976
Angelo W. Locascio, Clerk

Second Order of United States District Court,
District of New Jersey

EXHIBIT G

RLR:kew
74 1380
74 1383
74 1384

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action 74-469

JAMES C. GABRIEL, *pro se, et al.*,

Plaintiffs,

—v.—

UNITED STATES OF AMERICA, *et al.*,

Defendants.

This matter, a motion to join the Internal Revenue Service as a party plaintiff, having been opened to the Court by James C. Gabriel and William R. Wesson, plaintiff pro se, in the presence of Jonathan L. Goldstein, United States Attorney for the District of New Jersey, Ronald L. Reisner, Assistant United States Attorney appearing, Fritz R. Kuhn, General Counsel for the Interstate Commerce Commission, Hanford O'Hara, Esquire appearing, Leon Leighton, Esquire appearing and John Charles Vaiani plaintiff pro se appearing, and the Court having considered the

motion and the documents filed in support thereof as well as the letter memorandum in opposition to the motion, and the Court having filed a letter opinion on March 1, 1976 and for good cause shown;

It is on this 17 day of March, 1976

ORDERED that the motion by plaintiff to join the internal Revenue Service as a party plaintiff herein be and the same hereby is DENIED without costs.

/s/ JAMES HUNTER, III

JAMES HUNTER, III
United States Circuit Judge

/s/ LAWRENCE A. WHIPPLE

LAWRENCE A. WHIPPLE
Chief, United States District Judge

/s/ CLARKSON S. FISHER

CLARKSON S. FISHER
United States District Judge

FILED

FILED

MAR 17 1976

At 8:30

ANGELO W. LOCASCIO
Clerk

Notice of Appeal

EXHIBIT H

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

Civil Action #74-471

*Notice Of Appeal To The Supreme Court
Of The United States—Appealing
for my Motion dated January 27,
1976, to Require Joinder of the I.R.S.
under Rule 19, of the Rules of Civil
Procedure, so as to enable the U.S.
Internal Revenue Service to collect
over \$100 million in Capital Gains
Taxes on the transfer of \$615,000,000
values without payment of any taxes.*

JAMES C. GABRIEL, *pro se*,

Plaintiff,

—v.—

UNITED STATES OF AMERICA and
INTERSTATE COMMERCE COMMISSION,

Defendants,

MISSOURI PACIFIC RAILROAD COMPANY,

Intervening Defendant.

To: *The Clerk of the United States District Court
District of New New Jersey*

SIRS:

The undersigned James C. Gabriel hereby appeals from the Judgement and Order of this Honorable United States District Court's decision on my Notice of Motion to Require Joinder of the Internal Revenue Service of the United States Government under Rule 19 of the Rules of Civil Procedure, making the Internal Revenue Service a party with Plaintiff James C. Gribriel, *Pro Se*, in the above Civil Action Captioned Case, in order that the United States Government Internal Revenue Service may become enabled to collect Capital Gains Taxes of over \$100 million on the over \$615,000,000 in taxable income values that were transferred from the Missouri Pacific R.R. Class B equity bearing Common shares to the MoPac Class A \$5 preferred \$100 value shares without paying any Capital Gains Taxes to the Internal Revenue Service of the United States Government on this \$615,000,000. James C. Gabriel, *Pro Se*, Appellant-Plaintiff is appealing from this Honorable Court's Judgment and Order denying my Motion to Require Joinder of the Internal Revenue Service with Appellant so as to enable the United States Government I.R.S. to collect these over \$100,000,000 Capital Gains Taxes, and Appellant is also appealing from each and every order and ruling upon which this Judgment and Order was based upon that denied Appellant's Motion to Require Joinder of the I.R.S. under Rule 19, which Motion's Original Appellant Filed Jan. 27, 1976, as stamped by Angelo W. Locasia, Clerk.

/s/ JAMES C. GABRIEL
James C. Gabriel, *Pro Se*
Post Office Box 94,
Sea Girt, N. J. 08750

Service to: Clerk of the Court, one original and seven copies.

Certificate of Service

I, JAMES C. GABRIEL, *Pro Se*, Petitioner, do hereby certify that 3 copies of each of the above and foregoing Petitioner's Jurisdictional Statement has been deposited in the United States Mail, postage prepaid, on the 15th day of June, 1976, to the following addressees:

JONATHAN L. GOLDSTEIN

U.S. Attorney for the District of New Jersey
Newark, N.J. 07101

HAROLD L. REISNER

Assistant U.S. Attorney
Federal Building
Trenton, N.J. 08608

LEON LEIGHTON, Esquire

MILTON ROSENKRANZ, Esquire

6 East 45th Street
New York City, N.Y. 10017

JOHN H.D. WIGGER, Esquire

Anti-Trust Division
Dep't of Justice
Washington, D.C.

HANFORD O'HARA

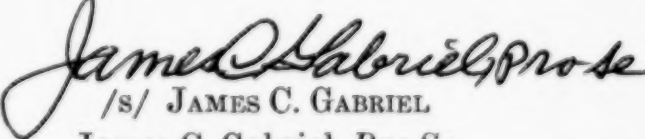
Office of the General Counsel
Interstate Commerce Commission
Washington, D.C.

JOHN CHARLES VALANI

1313 River Ave.
Point Pleasant, N.J.

WILLIAM R. WESSEN

1550 Ocean Ave.
Mantoloking, N.J.


/s/ JAMES C. GABRIEL
James C. Gabriel, *Pro Se*
Plaintiff-Appellant